

SERVICE DATE -- MAY 21, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 32 (Sub-No. 85X)

BOSTON AND MAINE CORPORATION--ABANDONMENT EXEMPTION--IN
MIDDLESEX COUNTY, MASS.

Decided: May 18, 2012

This decision reopens the proceeding to remove the previously imposed Section 106 historic preservation condition.

The Boston and Maine Corporation (B&M) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F--Exempt Abandonments to abandon a 1.27-mile portion of the Lowell Industrial Track between station 1304+77, and station 1372+00 in Lowell, Middlesex County, Mass.¹ Notice of the exemption was served and published in the Federal Register on November 13, 2008 (73 FR 67,251). The exemption was scheduled to become effective on December 13, 2008.

By decision served on December 11, 2008, the Board imposed the following environmental conditions recommended by the Board's Office of Environmental Analysis (OEA):² (1) that B&M consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning any salvage activities that could disturb or destroy any geodetic station markers, and (2) that B&M (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed, (b) report back to OEA regarding any consultations with the Massachusetts State Historic Preservation Office and the public, and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.

In a supplemental final environmental assessment dated April 24, 2012, OEA advises that the Massachusetts Historical Commission (MHC) wrote to applicants on May 12, 2008, instructing that they needed to identify any known historic or archaeological properties that

¹ Springfield Terminal Railway Company (ST) joined in filing this notice of exemption to obtain Board authorization for ST to discontinue service over the same line in Springfield Terminal Railway Company--Discontinuance of Service Exemption--in Middlesex County, Mass., Docket No. AB 355 (Sub-No. 37X).

² Previously the Section of Environmental Analysis, or SEA.

could be affected by the proposed project using the “Inventory of Historic and Archaeological Assets” of the Commonwealth. Pan Am Railways (Pan Am), acting on behalf of B&M, conducted the inventory survey. The results of the survey were inconclusive, thus MHC suggested that Pan Am contact the Lowell Historic Board to better determine if there would be any potential adverse effects from the proposed abandonment to any historic properties. MHC also recommended that B&M contact the Lowell National Historical Park regarding any historic preservation concerns it may have due to the park’s close proximity to the line of railroad.

Pan Am complied with MHC’s recommendation and contacted both the Lowell Historic Board and the Lowell National Historical Park. In response, the Lowell Historic Board advised that the proposed abandonment was not located within any of 11 districts under its jurisdiction and that it had no concerns regarding the proposed abandonment. In an e-mail dated March 13, 2012, addressed to Pan Am, Peter J. Aucella, Acting Superintendent of Lowell National Historical Park, indicated that the area of the proposed abandonment was located well outside the confines of the park and not within an area of interest to the park. Pan Am forwarded copies of the correspondence to MHC and OEA.

OEA states that it received a letter from MHC dated March 20, 2012, advising the Board to make a finding of “no historic properties affected” (36 C.F.R. § 800.4(d)(1)), based on the findings of the Lowell Historic Board and the Lowell National Historical Park, as well as the results of the inventory research conducted by Pan Am. On March 26, 2012, OEA sent a letter to MHC affirming OEA’s decision to make such a finding for the proposed undertaking. OEA therefore recommends that the Section 106 condition be removed.

Based on OEA’s recommendation, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.³

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the December 11, 2008, decision is removed.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

³ The National Geodetic Survey condition remains in effect.